United Nations E/CN.15/2002/9/Add.1

Economic and Social Council

Distr.: General
23 January 2002

Original: English

Commission on Crime Prevention and Criminal Justice
Eleventh session
Vienna, 16-25 April 2002
Item 5 of the provisional agenda*
International cooperation in combating transnational crime

Illicit manufacturing of and trafficking in explosives by criminals and their use for criminal purposes

Report of the Secretary-General

Addendum

Results of the study on the illicit manufacturing of and trafficking in explosives by criminals and their use for criminal purposes

Contents

		Paragraphs	Page
I.	Introduction	1-4	3
II.	Analysis of relevant instruments and other documents	5-13	3
	A. Report of the Group of Experts on the problem of ammunition and explosives	5-8	3
	B. Convention on the Marking of Plastic Explosives for the Purpose of Detection	9	4
	C. International Convention for the Suppression of Terrorist Bombings	10	5
	D. Security Council resolution 1373 (2001)	11	5

* E/CN.15/2002/1.

V.02-50188 (E) 180202 190202

E. Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials ... 12 6

F. United Nations Convention against Transnational Organized Crime and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime ... 13 6

III. Analysis of the responses to the survey questionnaire on the illicit manufacturing of, trafficking in and criminal misuse of explosives ... 14-67 7

A. Background ... 14-20 7

B. Sources of information on each country (questions 1-5) ... 21-24 8

C. Explosive-related incidents (questions 6-9) ... 25-31 9

D. The extent to which incidents involved organized criminal groups and/or transnational elements (questions 7 and 14) ... 32-35 11

E. Other illicit sources of explosives (question 7) ... 36-41 12

F. Proportionate involvement of military, commercial and "home-made" or other explosives in incidents (question 8) ... 42-47 14

G. The seriousness of explosive-related incidents (question 9) ... 48-54 15

H. Legal controls on explosives (questions 10-12) ... 55-63 16

I. Additional issues raised by the responses of States received after the preliminary analysis ... 64-67 18

Annex

List of States that responded to the survey questionnaire ... 21

Tables

Table 1. Average annual explosives incidents and average annual deaths, per 100,000 population, 1995-1999 ... 10

Table 2. Analysis of responses ... 12

Table 3. Opinions of national experts on the extent of the problems and whether it involves significant transnational elements ... 12

I. Introduction

1. In its resolution 54/127 of 17 December 1999, the General Assembly requested the Secretary-General, from within existing or extrabudgetary resources, to convene an expert group of no more than 20 members, with equitable geographical representation, to prepare a study on the illicit manufacturing of and trafficking in explosives by criminals and their use for criminal purposes, taking into consideration Economic and Social Council resolution 1998/17 of 28 July 1998, and to report to the Commission on Crime Prevention and Criminal Justice as early as possible on the results of the study.

2. Pursuant to Assembly resolution 54/127, the Group of Experts on the illicit manufacturing of and trafficking in explosives was convened twice in Vienna, from 12 to 16 March 2001 and from 18 to 20 December 2001. At its first meeting, the Group reviewed existing documents and instruments dealing with explosives and other relevant subject matter. Its analysis of those documents and instruments forms the basis of section II of the present report. It also prepared a survey questionnaire for distribution to Member States, and decided to conduct additional research in several areas itself. The survey questionnaire was disseminated to Member States on 4 July 2001, requesting that they respond as soon as possible, but preferably no later than 30 September 2001. As of 20 December 2001, a total of 50 States had provided responses, and two further responses were received after the closing of the second meeting on that date.

3. On 10 November 2001, a statistical analysis of the responses received by that date was prepared and distributed to members of the Group of Experts, in order to permit sufficient time for them to review it prior to the second meeting. When the results were compiled on 10 November 2001, responses had been received from 35 States. That compilation and analysis forms the basis of subsections A to H of section III of the present report. Fifteen further responses received up to the closing of the second meeting of the Group on 20 December 2001 were also reviewed and directly taken into consideration by the Group at that meeting. The analysis of those responses, which were consistent with the earlier results, is reported in subsection I of section III of the present report. References to those responses were also added to the original analysis, where appropriate. Other additional notes and comments received from Member States were also taken into consideration.

4. A summary of the discussions of the Group of Experts at its two meetings and the conclusions and recommendations of the Group arising from the study are included in the report of the Secretary-General on the illicit manufacturing of and trafficking in explosives by criminals and their use for criminal purposes (E/CN.15/2002/9).

II. Analysis of relevant instruments and other documents

A. Report of the Group of Experts on the problem of ammunition and explosives

5. In its resolution 52/38 of 9 December 1997, the General Assembly requested the Secretary-General to prepare a study on the problem of ammunition and explosives. A Group of Experts was established and duly conducted the study, which was submitted to the Assembly by the Secretary-General in 1999 (A/54/155). The study was conducted in the context of initiatives by the United Nations to stem the negative impacts associated with the uncontrolled dissemination and use of small arms and light weapons. It sought to provide a basis on which to decide whether controls on ammunition and explosives might be viable as a response or partial response to the problem. Generally, the perspective of the study is one of arms control as opposed to crime control, and it drew in part on broader examinations of issues relating to the proliferation of small arms and light weapons. The Group expressed concern about a lack of accurate and up-to-date information about ammunition and explosives, and in particular about the lack of responses to a questionnaire it had circulated (A/54/155, paras. 9-10, 22, 27, 34, 36, 38, 47, 102, 104 and 105).[1] It found that controls on ammunition and explosives could not constitute a complete solution to the harm resulting from small arms and light weapons, but that failure to address them as part of a broader solution would represent "a serious flaw and a missed opportunity" (A/54/155, para. 11).

6. Regarding explosives, the report comments on the simplicity of many improvised explosive devices, and takes note of the ease with which information about bomb-making can be obtained in printed materials and on the Internet. It cites misuse of explosive devices by "extreme political groups, terrorists, criminals and disaffected individuals" as a widespread problem, but makes no specific observations about the involvement of organized crime or transnational elements in such incidents (A/54/155, paras. 27-33). On the subject of trafficking, it takes note of the relationship between trafficking in ammunition and weapons and in other illicit commodities such as narcotic drugs, and surveys the sources of such trafficking, ranging from theft and diversion of legal supplies to the retrieval of surpluses remaining in post-conflict areas (A/54/155, paras. 47-57). The comments are specifically directed at ammunition, rather than explosives per se, although some observations may be applicable. The report does make some distinctions between explosives and ammunition, however, noting that explosives, in particular commercial, non-military explosives, have much shorter lifespans than ammunition. Whereas small-arms ammunition remains stable for decades, explosives may deteriorate and even become dangerous over time, leading manufacturers, vendors and users to maintain relatively small inventories, allowing fewer opportunities for theft or diversion. The obvious risks of storing explosives in large quantities provide a further incentive for both commercial and military users to maintain only the required minimum stocks (A/54/155, para. 61).

7. The report examined the state of efforts to mark explosives for purposes which included identification of the type of explosive for users, in order to ensure such things as correct handling and use, tracing and the support of investigations, as well as detection by instruments such as sniffer devices. The report also surveyed the state of efforts in marking for post-detonation identification, or tagging, noting that this was required by law only in Switzerland, and that it was feasible only to mark with sufficient uniqueness to identify the manufacturer and a period of approximately six months, within which the marked explosive had been produced. It further indicated that all the marking efforts were under study in a number of countries, and that there were commercial and forensic concerns about factors such as cost, contamination and the reliability of marking, as well as the effects of various additives on stability and detonation performance (A/54/155, paras. 73-84).

8. The report makes a number of recommendations for preventing and reducing proliferation, but most are more applicable to small arms and ammunition than to explosives per se. One relevant option identified is the establishment of global standards for tagging explosives, including military explosives, which would provide some limited ability to trace them back to a place and date of manufacture (A/54/155, para. 96), although the recommendations in the report extend only to marking standards and not tagging (A/54/155, para. 105 (i)).[2] The report also calls for the investigation and use of new marking technologies, and for better, more transparent sources of information about explosives, including through the establishment of a United Nations database (A/54/155, para. 110). It should be noted that the report discusses the marking of "explosives and ammunition" in the same text, leaving the possibility that some options discussed may have been seen as more appropriate for small arms ammunition than for explosives.[3] The report further discusses possible domestic legal restrictions and security measures that could be used to regulate access to both explosives and those precursor chemicals for which access restrictions are feasible (A/54/155, para. 100).

B. Convention on the Marking of Plastic Explosives for the Purpose of Detection

9. The Convention on the Marking of Plastic Explosives for the Purpose of Detection[4] was concluded under the auspices of the International Civil Aviation Organisation in response to concerns that some types of plastic explosive cannot be detected by the conventional air-sampling, or sniffer, devices. The devices work by detecting small amounts of characteristic chemical vapours, which are emitted by most explosives, but which are not emitted in sufficient quantities by the "plastic" explosives to which it is directed. Detection by sampling is an important element of security screening systems intended to ensure that explosives or devices containing explosives are not placed on board aircraft, where even relatively small quantities of explosive, if detonated, can bring about catastrophic results. The major requirement of

the Convention is that otherwise undetectable plastic explosives be "marked" by adding certain chemicals, listed in an annex. The prescribed additives give off vapours of a type that will be registered by sampling equipment as characteristic of explosives and in sufficient quantities to ensure that any plastic explosive, so marked will be detected. The Convention calls for appropriate security with respect to such explosives and for the destruction of unmarked stocks. It also establishes a technical commission to monitor future developments in this area.

C. International Convention for the Suppression of Terrorist Bombings

10. The International Convention for the Suppression of Terrorist Bombings (General Assembly resolution 52/164, annex, of 15 December 1997)[5] requires States parties to criminalize acts of terrorist bombing, to investigate and prosecute elements of such offences committed within their territories, to assist other States parties in investigating such offences, and to either extradite offenders found in their territories or to prosecute them under domestic law. It does not, however, require the criminalization of actions other than terrorist bombing, including any activities relating to the illicit manufacturing of or trafficking in explosives. Legal assistance and extradition may not be refused on the grounds that the offence involved was of a political nature, but may be refused based on grounds for belief that the purpose of the prosecution is of a discriminatory nature based on factors such as the race, religion, nationality, ethnic origin, or political opinions of the accused. Offences to which the instrument applies include the delivery, placement, discharge or detonation of any explosive or other lethal device in a public place, government facility, public transportation or infrastructure system, where there was intent to cause death, serious injury, or extensive destruction likely to result in a major economic loss. The term "explosive or other lethal device" is defined broadly, including explosive and incendiary weapons as well as any device designed to release or disseminate toxic chemicals, biological agents, toxins or similar substances or radiation or radioactive material, if the device is designed to cause death, serious injury or substantial material damage or is capable of doing so. The instrument applies strictly on the basis of the nature of the act of bombing, the nature of the targets and the intention to cause harm, and does not deal with the motives of the offenders or attempt to distinguish terrorism per se from other motives for explosive attacks. It uses the terms "explosive or incendiary" without defining them, leaving the precise meanings to the States parties called upon to apply the instrument.

D. Security Council resolution 1373 (2001)

11. Following the terrorist attacks that took place in the United States of America, in Washington, D.C., New York and Pennsylvania on 11 September 2001, the Security Council adopted resolution 1373 (2001) of 28 September 2001, calling on States to work together urgently to prevent and suppress terrorist acts through full implementation of relevant international instruments, increased cooperation and a series of other specific measures set out in the resolution. Subject to the wording of individual provisions, these additional measures are legally binding on all Member States. The Group of Experts considered the following specific measures as relevant to the issues before it:

(a) Paragraph 2 (a) of resolution 1373 (2001) decides that States should refrain from providing any form of support for entities or persons involved in terrorist acts, including by "... eliminating the supply of weapons to terrorists";

(b) Paragraph 3 (a) of the resolution calls upon States to "find ways of intensifying and accelerating the exchange of operational information, especially regarding ... traffic in arms, explosives or sensitive materials ...";

(c) Paragraphs 3 (d) and 3 (e) of the resolution call upon States to become parties to relevant international conventions and protocols relating to terrorism and to fully implement those instruments;

(d) Paragraph 4 of the resolution notes with concern the close connection between international terrorism and transnational organized crime, and emphasizes the need to strengthen the global response to such crime as a serious challenge and threat to international security. The forms of such crime mentioned in the paragraph include "illicit arms trafficking" and the "illegal movement of nuclear, chemical, biological and other potentially deadly materials".

E. Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials

12. The Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials was adopted by the organization of American States (OAS) at Washington, D.C., on 14 November 1997 and entered into force on 7 January 1998.[6] It represented the first international legal instrument against illicit trafficking in firearms, and formed the basis of portions of the subsequent Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/255, annex, of 31 May 2001). As with the Protocol, the Inter-American Convention requires States parties to criminalize basic acts of illicit manufacture and trafficking. Unlike the Protocol, however, the Inter-American Convention applies to "explosives", which it defines, subject to certain exclusions, as "any substance or article that is made, manufactured, or used to produce an explosion, detonation, or propulsive or pyrotechnic effect ...". An annex to the Inter-American Convention excludes compressed gases, flammable liquids, and some common devices that employ explosives, such as automotive air-bag systems, consumer fireworks and some signal flares. The instrument also defines as a type of firearm a series of explosive devices, including explosive, incendiary and gas bombs, grenades, rockets and rocket launchers, missiles, missile systems, and mines. Artillery ammunition is not included, possibly because the definitions of "firearm" and "ammunition" would include this, not having any limits on size or calibre. The instrument does not require the marking of "explosives", per se, and requires the marking of the explosive devices defined as "firearms" only "appropriately at the time of manufacture, if possible". A consultative committee was established to promote certain measures related to, or supportive of, implementation of the Convention.

F. United Nations Convention against Transnational Organized Crime and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime

13. A series of four instruments, developed between 1999 and 2001, include the Convention against Transnational Organized Crime (General Assembly resolution 55/25, annex I, of 15 November 2000), which is directed at transnational organized crime in general, and three protocols, which contain elements directed at specific activities in which organized criminal groups tend to engage. During the process of negotiating the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, proposals were made to incorporate measures against illicit trafficking in explosives as well, but a number of States had specific concerns about the technical feasibility of applying similar regulatory measures to both firearms and explosives. Some States also had more general concerns about the feasibility of measures dealing with explosives, or whether an international instrument relating thereto was needed. Following discussion at several sessions of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime, it was decided not to deal with explosives on the basis of advice that they were beyond the mandate set for the Committee by the General Assembly (see A/AC.254/4/Add.2/Rev.3, footnote 74, and A/AC.254/25, para. 22). That does not necessarily exclude explosive-related offences from the ambit of the Convention, however. While the technical provisions of the Protocol, such as the requirements to mark firearms and keep records of transnational transfers, do not apply, the Convention itself applies to any offence which is a "serious crime", is "transnational in nature", and involves an "organized criminal group" (article 3): "Serious crime" is defined as "conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty" (article 2, para. (b)), a standard likely to be met in most countries in cases where explosive devices are planted or detonated, and possibly in other cases, such as theft or diversion, as

well. The Convention would apply in such cases, where the necessary elements of organized crime and transnationality are also present or suspected.[7] It may also apply in some cases where explosive-related activities of an organized criminal group occur incidentally to other criminal activities which trigger its application, such as cases where the use of explosives involves more serious offences such as murder.

III. Analysis of the responses to the survey questionnaire on the illicit manufacturing of, trafficking in and criminal misuse of explosives

A. Background

14. On 4 July 2001, a note verbale containing a questionnaire asking 14 basic questions about the nature and extent of problems related to the illicit manufacturing of and trafficking in explosives and their use for criminal purposes was sent to all States Members of the United Nations. The note requested that States respond as early as possible, but preferably not later than 30 September 2001, to permit sufficient time for the results to be compiled and reviewed by the Group of Experts prior to its second meeting. The compilation and preliminary analysis was completed on 10 November 2001, at which time 35 States had responded. A further 15 responses were received between 10 November and the conclusion of the meeting, on 20 December 2001, and two additional responses were received after the meeting. The latter responses were generally consistent with the initial responses and were taken into consideration in drafting the analysis and in the other work of the Group of Experts. Additional issues raised by the latter responses are also discussed separately in section I below.

15. In total, the following 52 States took part in the survey: Algeria, Azerbaijan, Belgium, Bolivia, Botswana, Bulgaria, Chile, China, Colombia, Cyprus, Czech Republic, Denmark, Eritrea, Estonia, Finland, Gambia, Germany, Guatemala, Guyana, Honduras, India, Indonesia, Japan, Jordan, Kuwait, Lebanon, Lithuania, Malta, Mauritius, Mexico, Monaco, Morocco, Namibia, Netherlands, Panama, Peru, Poland, Qatar, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Syrian Arab Republic, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland and United States of America.

16. The questionnaire sought information in three major areas: background information about the sources of information provided; information about actual explosive-related incidents; and information about legal measures adopted to control the access to or use of explosives in each responding country. Some of the States that responded did not answer all of the questions asked. In some cases the information may have been seen as sensitive for law enforcement or security reasons, and several States indicated that some of the requested information was either not gathered or not centrally compiled.

17. Statistical information about occurrences was requested over a five-year period, from 1995 to 1999, inclusive. The absolute numbers provided by respondents were then averaged over the five-year period, and, where indicated, expressed in rates per 100,000 inhabitants to facilitate comparison between countries. While a statistically significant number of States responded, fewer than half of the 189 States members did so. Further, those responding may not necessarily represent a random sample of countries. One possibility is that those States that considered explosive-related crime to be a serious problem were more likely to respond, resulting in the possible over reporting of incidents.

18. It should also be noted that, in many cases, the actual numbers of incidents in some countries are small enough to be measurably affected by the activities of single offenders or groups of offenders. That is particularly true in places where the systematic activities of organized crime or terrorist groups may account for relatively large numbers of related incidents that do not occur randomly in terms of timing or geography. Further, it should be noted that the dangerous nature of explosives leads to incidents that may range from relatively minor occurrences to the mass-casualty events caused by large vehicle-transported explosive devices. Major incidents of that kind are sufficiently large to alter the entire statistical profile of a country over the study period. Two such incidents, the vehicle bombing of a government building in Oklahoma City, Oklahoma, United States of

America, on 19 April 1995, which did affect the results for that country, and the explosion of a fireworks factory in Enschede, the Netherlands, in May of 2000, which occurred just outside the study period, are mentioned, but there may well be others of which the Group of Experts was not aware.

19. Finally, some variations in the reporting of incident rates may have been introduced by differences in the treatment of incidents in the national statistical repositories from which the data were reported. A series of explosions detonated by a single individual or group in a short space of time, such as the 1993 attacks at Mumbai, India, discussed below, might be treated by one country as a series of incidents or occurrences, while another might treat them as a single incident because a single investigation was conducted. On the same basis, the production of a number of explosive devices reported by Estonia could be treated as one criminal incident or many, depending on national statistical practices, how the investigation progressed, and how the devices were eventually used or recovered by law enforcement. Conversely, in some countries, the loss or theft of explosives and their subsequent recovery may be treated as two separate incidents, in particular if they occur in different years or statistical reporting periods. In transnational cases, such as smuggling, the same criminal act could also generate incident reports in more than one country.

20. Based on the data received and the comments of several States that responded to the survey questionnaire, most States did not appear to distinguish between terrorism and crime. Most appeared to consider terrorism as one form of organized crime. Several either specifically stated that data were provided on that basis, or identified organized criminal groups that they considered to be of a terrorist nature. The Group of Experts noted that its mandate (General Assembly resolution 54/127, para. 5), called for a study of illicit manufacturing and trafficking by "criminals" and use for "criminal" purposes, which neither included nor excluded terrorism per se. It also expressed the view that, while political questions raised by terrorism were beyond both its expertise and its mandate, in cases where explosives were involved, terrorist activities were also criminal activities, and that the criminal or criminological aspects of terrorism were within its mandate in such cases. Many responding States and several members of the Group also reported information about cases in which offences had been committed by groups involved in both terrorist and more conventional criminal activities to the point where classifications that sought to distinguish between crime and terrorism were not feasible, as well as cases in which terrorist groups and conventional organized criminal groups cooperated in criminal activities. Therefore, in preparing its study, the Group of Experts generally considered that the data received and the analysis of the data were conducted on the basis that individuals, groups and activities reported as being of a criminal nature by the reporting States also included individuals, groups and activities that would be classified as being of a terrorist nature by those States.

B. Sources of information in each country (questions 1-5)

21. Most responding States had more than one government department or ministry that was responsible for explosive-related matters. In almost every case (31 of 35 States), ministries responsible for domestic security, crime, law enforcement or customs controls played a leading role, and in many responses interior ministries or similar entities were the only ones indicated. The high degree of involvement of such ministries suggests that most States consider explosives a sufficiently serious concern to be dealt with by criminal justice or national security mechanisms. That is corroborated by the answers to question 10, in which every respondent indicated that it had established criminal offences and licensing or similar laws relating specifically to explosives. The role of law enforcement agencies is probably increased in many countries by the frequent use of criminal investigators and forensic experts in explosives incidents to determine at the outset whether criminal behaviour may have been involved and whether a full criminal investigation should ensue.

22. National ministries responsible for industrial development, technology, transport and the environment were listed by 12 of 35 States. Such ministries appear to have roles in three major areas. Some responses suggested involvement in regulation of domestic industries that develop and manufacture explosives, while others indicated involvement in the regulation of explosives in industries where they are used, such as mining and agriculture. The third area of

involvement was that of safety regulation, both generally and in the context of particular risk areas, such as the transportation sector.[8]

23. Eleven of 35 States reported some degree of responsibility on the part of ministries of defence, military affairs or munitions. In many of those States, it appears that civilian and military sectors of government enjoy approximately parallel jurisdictions over similar activities, such as manufacture, transport and use, which take place in civilian activities or industries and in the military forces. Given the national security concerns that arise in this area, it is possible that additional countries have similar military jurisdictions, but reported only on their civilian agencies. In some cases, military agencies were also listed because they had specific responsibilities in the area of bomb disposal, even in cases not otherwise associated with the military.

24. All but three of the 35 responding States indicated that statistical information was kept, but the majority (22 of 35) indicated that it was not publicly available, and others cited limits on the disclosure of the information for technical, security or other reasons. Of these States, however, most were able to provide at least some information in response to the survey. Ten States indicated that at least summaries of statistical information were made public. Two States did not have any statistics available concerning crimes or incidents and responded only to the questions dealing with legal controls.

C. Explosive-related incidents (questions 6-9)

25. Generally, the responses indicated that explosive-related incidents occur relatively infrequently. Even in the eight States that reported relatively high annual rates of incidents, ranging from 2.00 to 22.35 per 100,000 inhabitants, those incidents were only a small fraction of overall offending. The United Nations Survey on Crime Trends and the Operations of Criminal Justice Systems lists overall crime rates ranging from 756 to 19,309 offences per 100,000 inhabitants for the same countries.[9] The average of 16.35 explosive incidents reported by Peru, for example, represents only about 2.5 per cent of the rate for all crimes, and the figures reported by Denmark amount to only about 0.03 per cent of its overall crime rate. Several States indicated that the numbers of incidents were too small to warrant counting, while others reported levels too small to be statistically significant.

26. Of those States that reported rates in excess of 2 incidents per year, however, rates rose sharply. The average of the reported rates was 2.42 incidents per 100,000 inhabitants per year. Four States reported rates ranging from 7.14 to 22.35 incidents. The major contributing factors appear to be a combination of the availability of explosives and their use by specific organized criminal groups. Algeria (7.14 incidents) reported the involvement of two major organized criminal groups, known as the Armed Islamic Group and the Salalfi Group for Call and Combat; Estonia (19.88 incidents) reported a combination of organized crime use and widespread availability of military explosives and devices from former Soviet stockpiles; and Lebanon (22.35 incidents) cited explosives remaining from its civil war and subsequent military occupation. The fourth State, Peru (16.35 incidents), made no observations, but occupies a region where organized crime activities and conflict conditions may well have affected incident rates.

27. The presence of significant quantities of explosives in post-conflict or other areas might increase incident rates for several reasons. The most likely factor is that the simple availability of explosives may induce potential offenders to select them in preference to less available instruments, such as firearms or other weapons, or to choose offences in which explosives may be used simply because they are available. For example, explosives may be used to commit homicides in preference to other weapons, or organized criminal groups might choose extortion in preference to other offences because the threat of explosives is seen as credible both by offenders and potential victims. The widespread availability of explosives is also likely to be associated with the presence of individuals who know how to use them. Post-conflict areas are usually inhabited by veterans, and regions where explosives are commonly used for other purposes, such as mining, agriculture or construction, will have residents familiar with explosives in those contexts, and who may be tempted to put their knowledge and skills to criminal uses.

28. The presence of "left-over" military munitions in post-conflict regions also raises methodological

questions. Countries where significant numbers of incidents, deaths and injuries are due to land mines and other unexploded munitions face the question of whether to record these as crimes, accidents, or to create a separate statistical category for them. In countries where landmines are a major problem, rates of detonation, injuries and deaths far exceed comparable crime rates, potentially rendering any statistical comparisons meaningless.[10] At least one responding State, Namibia, raised the question of landmines remaining after an old conflict and of newer devices planted for insurgent or criminal purposes.

29. Apart from those considerations, recording and reporting variations are probably most significant in the figures reported for incidents in which explosives were not detonated. While question 7 asked for information about incidents involving such things as theft or smuggling, question 6 did not explain what was meant by incidents in which explosives were not detonated. In some cases, respondents gave higher rates of incidents involving non-detonation than detonation (for example, Peru), while, in others (Poland), the higher figures were for detonation incidents. While that could be a result of actual differences in criminal behaviour, such as the widespread planting of inactive devices or warning of authorities in time to permit deactivation, it is more likely a result of differences in the gathering, recording and reporting of statistics. Some States may have limited non-detonation incidents to incidents in which devices were recovered or deactivated prior to detonation, while others may have reported a much broader class of incidents, including such things as theft, smuggling and illegal possession or licensing infringements.

30. Incidents involving injuries or property damage are also less likely to be statistically recorded than incidents that involved fatalities. Peru, for example, reported overall incident levels far higher than did Colombia, but Colombia reported higher death rates, suggesting either a higher rate of serious detonations in Colombia, or that Peru reported incidents based on a larger, more broadly defined classification than did Colombia. To avoid those uncertainties, the study uses as the two major indicators of the overall frequency and seriousness of explosive incidents the total average incident rates for each country and the total average death rates, both calculated in terms of occurrences per 100,000 persons per year.

31. While explosive-related crimes are less frequent than many other forms, they are capable of causing serious consequences. Single incidents occasionally cause mass casualties and major property damage. That fact, when combined with the relatively low numbers of explosive-related incidents in general, requires that any link between offending levels and the overall seriousness of the problem be treated with caution. That is illustrated by the Netherlands, which reported an average of one death per year and no major incidents or fatal accidents from 1995 to 1999, but then suffered 20 deaths and major property damage in a single incident when several explosions from a burning fireworks factory devastated a large part of the town of Enschede in May of 2000, shortly after the end of the study period. Similarly, the explosive attack that destroyed a United States government office building in Oklahoma City on 19 April 1995 and killed 168 people resulted in an eight-fold increase in the annual rate of explosive fatalities in that country, and more than doubled its five-year average as used in the study.[11] Results of the statistical analysis of the data are presented in table 1.

Table 1
Average annual explosives incidents and average annual deaths, per 100,000 population, 1995-1999

Country	*Incidents*	*Deaths*
Algeria	7.14	1.01
Bolivia	--	--
Botswana	0.19	0.04
Bulgaria	2.00	0.08
Colombia	2.99	0.76
Cyprus	3.22	0.10
Czech Republic	0.73	0.04
Denmark	2.85	--
Estonia	19.88	0.49
Finland	--	--
Germany	0.04	0.01
Guatemala	--	0.06
Honduras	0.22	0.02
India[a]	0.04	0.26
Indonesia	0.01	0.00
Japan	0.07	0.00
Jordan	--	--
Kuwait	--	--
Lebanon	22.35	0.11
Lithuania	1.14	0.04

Country	*Incidents*	*Deaths*
Malta	--	--
Mauritius	--	0.00
Namibia	--	--
Netherlands[b]	1.12	0.01
Panama	--	--
Peru	16.35	0.05
Poland	0.46	0.04
Singapore	0.02	0.00
Slovakia	1.50	--
Spain	0.33	0.01
Sweden	0.27	0.00
Switzerland	0.24	0.01
Turkey	0.95	0.08
United Kingdom of Great Britain and Northern Ireland	--	--
United States of America[c]	0.72	0.019 0.007

[a] Statistics from the 1993 Mumbai incidents (outside the study period) are not included.

[b] Statistics from the May 2000 Enschede explosion (outside the study period) are not included.

[c] Figures for the United States indicate five-year average fatality rates per hundred thousand, including (0.019) and excluding (0.007) the April 1995 Oklahoma City explosion.

D. The extent to which incidents involved organized criminal groups and/or transnational elements (questions 7 and 14)

32. Information was sought (questions 7 and 14) about the occurrence of the involvement of organized criminal groups and elements of transnationality. Apart from their relevance in assessing the general seriousness of the problem, both of those factors would be relevant in considering whether to develop a further protocol to the United Nations Convention against Transnational Organized Crime, since neither that instrument nor its existing protocols generally apply to activities that do not involve organized criminal groups or some element of transnationality (see articles 2 and 3 of the Convention).[12] Further, the extent to which transnational elements are present is relevant to the question whether a response of any kind on the part of the international community is warranted. Absent elements of transnationality, the problem would be a matter for each individual country to resolve at the domestic level. In that case, the only appropriate international response, if any, might be the sharing of information or technical assistance with such things as legislative, law-enforcement or forensic expertise to support domestic efforts in States that request such assistance.

33. Asked for their expert opinions, about half of the respondents (17 of 35) indicated that their countries did experience problems relating to the illicit manufacturing of or trafficking in explosives by criminals or their use for criminal purposes. Of those, some expressed the opinion that only use was a problem, 16 indicated that no problem existed, and two expressed no opinion.[13] On the question whether such a problem, if it existed, involved significant transnational elements, the majority (22 of 35) expressed the opinion that transnationality was not a significant problem. Of those, 16 respondents reported no problems of any kind, transnational or otherwise, while a further six indicated domestic problems without significant elements of transnationality. Eleven expressed the view that significant transnational elements were present, and two expressed no opinion. Of the responses indicating no major problem of transnationality, one did indicate concern about the transnational availability on the Internet of information concerning the making of explosives and explosive devices.

34. Of the six States which did report significant transnational elements,[14] most have either experienced problems with groups they consider to be of a terrorist, subversive or insurgent nature, or are located in post-conflict regions where the smuggling of surplus military munitions was a factor. Several, including Algeria, Colombia, Indonesia and Namibia, made specific comments to that effect in their responses. India supplemented its response with a letter outlining problems it has experienced with cross-border terrorist activities, including a one-day series of attacks on the city of Mumbai, India, which involved 10 separate devices and an estimated 4,000 kilograms of smuggled RDX explosives, causing 257 deaths, 713 serious injuries and extensive property damage.[15] India also commented on the relationship between transnational organized crime and terrorism. In advocating a unified approach to both problems, it pointed out that, in some cases terrorist and organized criminal groups were

indistinguishable, while in others, it had encountered conventional organized crime groups assisting terrorist groups with smuggling and other illicit services. India argued that a binding legal instrument should be created, but that it should not be linked to the United Nations Convention against Transnational Organized Crime, in order to ensure a broader application to terrorist groups and their activities.[16] States that made no comment but have experienced explosive-related problems of that nature included Jordan, Lebanon and Spain. Estonia, which reported a trafficking problem but did not consider the transnational elements to be of a serious nature, described incidents in which explosives and munitions remaining from stocks from the Soviet era were smuggled to other countries by organized criminal groups. The Netherlands, which did report significant transnational elements, cited similar concerns about the smuggling of such explosives into its territory. Two other States that were formerly under Soviet influence, Lithuania and the Czech Republic, also reported transnational elements, but made no comment as to their nature.

35. Of the States whose experts raised concerns about transnationality and the involvement of organized crime, many did not report data in support of their concerns. Only four of 35 States reported cases of explosives smuggled into their territories; no State reported any cases of smuggling from their territories to other States; and only five States reported cases involving any other transnational elements. One possible explanation is that records of such cases are simply not kept or recorded in a format that permitted them to be used in response to the survey. Another likely scenario is that groups sophisticated enough to smuggle explosives or use them in support of transnational crime activities represent a serious threat, but tend to commit small numbers of major crimes, justifying the official concern but not generating significant incident statistics. A further possibility is that sophisticated criminal groups that seek to use explosives in a country may be more likely to try to produce or obtain them domestically, rather than incur the additional risks inherent in smuggling them into the country. Where particular types of explosive are sought by criminal groups, however, local conditions of supply and demand may still contribute to the smuggling of those types, in much the same way as with other commodities. Incidents were not reported as part of the study, but at least one expert was aware of cases in which the military-type explosive Semtex and other military munitions were smuggled by organized criminal groups, both for the purposes of use and resale. Results of the analysis of responses are presented in tables 2 and 3.

Table 2
Analysis of responses

Incidents involving	*Number of States reporting incidents*
A. Elements of transnationality	
Explosives smuggled into territory;	2
Explosives smuggled out of territory	0
Other transnational elements	5
Total	6
B. Organized criminal groups	
Total	6[a]

[a] Including Algeria, which did not report statistical information, but indicated that two identified organized criminal groups were involved in at least some explosive-related incidents.

Table 3
Opinions of national experts on the extent of the problem and whether it involves significant transnational elements

Question	*Response and number of States responding*		
Is there a problem involving the illicit manufacturing of, or trafficking in, explosives or their use for criminal purposes	No problem or problem not serious	Serious problem	No opinion
	16	17	2
If such a problem exists, does it involve significant transnational elements	No problem or problem not trans-national	Transnational problem	No opinion
	22	11	2

E. Other illicit sources of explosives (question 7)

36. In addition to seeking information about the involvement of transnational and organized crime elements, question 7 also asked about other relevant

details of the incidents reported. In formulating the questionnaire, the experts took the view that, in any country, illicit sources of explosives could be divided into three major categories: those smuggled into the country from abroad; those illicitly manufactured; and those made legally and subsequently diverted to illegal possession or use by theft or other means. Information was therefore sought in those three areas.

37. The survey did not seek information about whether particular types of explosive were more likely to be obtained by any particular means, because States were unlikely to keep such data. However, the assessment of members of the Group of Experts was that most military and commercial explosives were relatively unlikely to be illegally manufactured. For those explosives, relatively sophisticated chemical knowledge and manufacturing infrastructure is needed, and in some cases key ingredients are difficult to obtain anonymously, making manufacture of explosives on a clandestine basis difficult. Further, in many countries, those explosives can be more easily obtained from existing sources by means such as theft or diversion from legitimate industrial or military facilities. Some production by criminal individuals or groups is known to have taken place, however.

38. There are also many less sophisticated explosives that are not as powerful, compact or convenient, but which are much easier to manufacture and are adequate for many criminal applications. Members of the Group of Experts were familiar with cases in which those explosives were produced and used. Unlike more sophisticated explosives, the chemicals needed to make such types are common and have many legitimate industrial and agricultural uses unrelated to making explosives. That makes proactive legal restrictions on the substances impracticable and post-detonation or investigative tracing of transactions difficult, especially in regions where they are most commonly found. Some States do, however, encourage or require reporting or recording of large or otherwise suspicious sales of key chemicals such as ammonium nitrate, and may encourage vendors not to sell them in large quantities to unknown or suspicious purchasers. One concern of the experts, which was also raised by respondents to the survey, was the greater availability of information about how to make such explosives on the Internet and in some publications. While limiting such information would not curtail the activities of sophisticated organized criminal groups, it was felt that it might reduce the numbers of incidents generated by less sophisticated offenders.

39. Assuming that offenders will generally tend to acquire explosives from the most readily available and least risky source, the theft or diversion of legitimate stocks of military or commercial explosives is an area of obvious concern. However, relatively few States reported substantial numbers of incidents of that kind, and many of the higher incident levels reported came from countries with relatively sophisticated record-keeping systems (Germany, Japan and the United States). Several other States reported partial information, such as the total quantities of explosives lost or stolen each year, without indicating how many separate incidents had occurred. One State, Peru, reported far higher theft rates, and another, Algeria, reported very high numbers of incidents of illicit manufacture.

40. The fact that most reports came from countries with extensive record-keeping systems suggests that any patterns in the data may have more to do with recording and reporting variables than actual occurrences, and the experts therefore have not relied upon those data. However, the fact that a problem exists in States that keep detailed records does suggest that the lack of data may mask the fact that similar problems exist in States that do not keep records. It is also possible that the countries that did have records, being relatively industrialized, may have larger explosives-manufacturing industries, and hence larger quantities that could be targeted by criminals. No State indicated that theft or diversion from military supplies was a specific problem (nor was that information sought), although several did provide comments that indicated that smuggling or trafficking in surplus munitions remaining from past conflicts was a problem.

41. The lack of data in that area may also mask a true picture of the seriousness of individual incidents, as well as links between the theft, smuggling or diversion of explosives and the subsequent use of those explosives for criminal purposes. When asked about seriousness (question 9), eight States reported a total of at least 171 separate incidents in which more than 100 kilograms of explosives were involved. Of those incidents, 151 were reported by the United States and a further 8 by other States (Germany, Sweden and Switzerland) with extensive regulatory controls and

record-keeping structures. A number of other States indicated that records were not kept at all, which suggests that major cases may well be underreported in many countries for the same reasons why other cases are underreported there.

F. Proportionate involvement of military, commercial and home-made or other explosives in incidents (question 8)

42. Respondents were asked to estimate the relative proportions in which the type of explosive substance or filler, the type of device and the type of detonator involved in incidents that they reported were of a military, commercial and home-made or other nature. The types of explosive, device and detonator are three distinct categories, likely to vary depending on factors such as the skills of offenders in making devices and the relative availability of components. A single incident, for example, might involve a home-made device, charged with surplus military explosives and a commercial detonator. The explosive substance itself will generally consist of: a compound produced exclusively or generally for military applications, such as C-4 or Semtex, and generally recognized as a military explosive by experts; a compound produced and sold for commercial blasting applications, such as dynamite; or, a compound assembled by the offenders themselves. The survey did not attempt to define or list the specific types in each category, relying on the knowledge of national experts to do so. Where an explosive is detonated, forensic experts can generally determine the compound used by the analysis of residues and other trace evidence found at the scene; but that is a costly and time-consuming process, and it may not be undertaken in every case.

43. Responses to the questions about types of explosives, devices and detonators were mixed. Regarding the basic type of explosive involved, 8 of 35 responses indicated mostly "military" explosives, 7 indicated mostly "commercial" ones, and 6 indicated mostly "home made or other", with the remainder either not responding to the questions or giving proportions in which no single type amounted to 55 per cent or more.

44. The data do not support the drawing of firm conclusions, but one major determinant is probably the relative availability of explosives. Several States in eastern Europe cited concerns regarding the trafficking of surplus military explosives and devices from former Soviet stockpiles, and four of the eight States reporting mostly military explosives, Bulgaria, the Czech Republic, Lithuania, and Poland, were from that region. Two of the remaining countries, Lebanon and Namibia, are in other post-conflict regions where surplus military explosives and devices are common, a fact highlighted by Namibia in its response. Of the seven States reporting mostly "commercial" explosives, only two, Germany and Slovakia, are in or adjacent to eastern Europe. Estonia, which did not report overall proportions, did indicate that, between 1995 and 1999, the use of explosives shifted proportionately, from military to commercial types: it reported a drop from 50 to 10 per cent of military explosives and an increase from 45 to 85 per cent of commercial explosives, as well as significant decreases in detonation incidents. Both trends would be consistent with a gradual reduction of military explosives as surplus supplies were depleted or identified and secured or disposed of.

45. The types of explosive encountered may be linked to availability, but that would not apply to the type of devices. The latter are often constructed by offenders from whatever materials are available, in accordance with the ingenuity and skill level of the maker, and are designed to suit whatever purpose is intended. In some cases, that may involve considerable sophistication, but the majority of devices can be made by anyone with a relatively rudimentary knowledge of explosives and basic electrical circuitry (A/54/155, paras. 27-33). The criminal misuse of professionally constructed devices is probably relatively rare, because the devices themselves are either unavailable or unsuitable for criminal purposes.[17]

46. Regarding the types of explosive devices encountered, 18 States either gave no answer or showed no clear predominance of military, commercial or other devices.[18] Ten States reported mostly home-made or other devices, four reported mostly military devices, and two reported mostly commercial devices. Two of the four States that reported mostly military devices, Lebanon and Namibia, cited past military conflicts as the source of devices such as landmines. The fact that 10 States reported mostly home-made or other devices suggests that most devices used in crime are assembled by offenders, even if military or commercial components were used.

47. Regarding the relative prevalence of different types of detonator, most States either did not know which types were used, did not record the information, or reported figures that did not show any one type predominating. Of those reporting the prevalent use of one type, seven States reported mostly commercial detonators, five reported mostly military ones, and two reported the use of home-made detonators. As with the other categories, that probably reflects relative availability in the various countries, combined with the fact that reliable detonators are difficult (and dangerous) to manufacture without specialized knowledge and equipment, and that the use of unreliable detonators may be as dangerous to offenders as to potential victims.

G. The seriousness of explosive-related incidents (question 9)

48. Members of the Group of Experts were aware that the seriousness of explosive-related incidents can vary widely. Bomb-related incidents, for example, range from hoaxes and relatively minor experimental detonations to mass-casualty vehicle bombings perpetrated by major terrorist or organized criminal groups. As noted above, that is illustrated by the effects of one single truck-bombing of April 1995, which significantly altered the major statistics for the United States for the entire study period. Accordingly, in addition to basic occurrence rates, States were also asked about the numbers of serious or major incidents that had occurred, in terms of deaths, injuries, major property damage and large-scale or systematic illicit activities.

49. Apart from numbers of people killed in criminal and accidental occurrences, most States were not able to provide detailed information in response to those questions. As noted above, eight States reported a total of at least 171 incidents of theft or smuggling of amounts in excess of 100 kilograms, including one case involving 1,700 kilograms of commercial explosive and another involving 100 kilograms of C-4, a powerful military explosive. Apart from the United States, which reported eight detonation incidents resulting in damage exceeding $1 million, only 2 other such incidents were reported, one each by Botswana and Turkey.[19] Cyprus reported 109 cases involving the systematic illicit manufacture of explosive substances or devices, but only 10 such cases were reported by all of the other countries combined: eight by Indonesia and one each by Estonia and Sweden. The reference to "systematic" manufacture was intended to exclude cases where only small amounts or single devices were made, thereby focusing on large-scale chemical manufacture or the production of large numbers of devices. Apart from the report of Cyprus, systematic manufacture appears rare, but the potential seriousness of this activity when it does occur is illustrated by the case reported by Estonia, in which offenders are believed to have manufactured from 50 to 200 separate bombs, which were then smuggled to a criminal group in another country.

50. Several States supplied additional comments about the nature of the serious incidents reported. Generally, they identified various incidents as being associated with one or more of four basic underlying activities. Several comments referred to incidents linked to groups that they identified as being of a terrorist nature, or, in one comment, as being involved in activities of a "civil-war" nature. Some reports also referred to named groups known to be using explosive incidents as part of a strategy seeking social or political changes, or referred to incidents attributed to motives such as "destabilizing" the country. No specific examples of systematic manufacturing were provided by reporting States, but experts were professionally aware of a number of cases in which groups seen as terrorist groups had operated facilities in which explosives and devices were systematically produced. The systematic production of explosive devices and substances is more consistent with the long-term bombing campaigns waged by groups such as the Irish Republican Army, the Basque group known as ETA, the Revolutionary Armed Forces of Colombia or the Armed Islamic Group in Algeria, than with the needs of more conventional organized criminal groups, which are probably more likely to construct and use explosive devices, if at all, on a case-by-case basis.

51. A second reason given by some States referred to the production and use of explosive devices for offences consistent with more conventional forms of organized crime. While there were not enough reports to draw firm conclusions, it would appear that such incidents are rare in most countries, but by no means unheard of. Based on media reports and the experience of the experts, the most common uses of explosives by conventional organized crime groups would appear to

be the murder of persons such as officials, criminal opponents and witnesses, the threat or use of explosives in support of extortion schemes, and the use of explosives to attack or break open vaults, safes, automated teller machines (ATM) or cash-dispensing machines. A major factor in the selection of explosives by offenders of any kind is probably the high profile of detonation incidents and the indiscriminate nature of explosives. Where the intention is to attract public attention or intimidate populations or Governments, explosive incidents may be a logical choice. Where a criminal group seeks to avoid high-profile incidents, mass casualties and the resulting attention from populations, legislators and law enforcement agencies, means other than explosives may have more appeal. There may well be exceptions to that logic, however. Explosives offer the offenders the advantage of setting devices when there is no surveillance and detonating them later, after having retreated to a place of safety, but that is also associated with counter-incentives. For criminal offences such as murder, the delay reduces the risk to offenders of being caught, but explosives are less discriminating than firearms, potentially missing the intended target and killing or injuring others. They also require much greater skill, both to use successfully and to avoid risks associated with accidental detonations. In some offences, such as breaking open safes or vaults, explosives are used because no other instrument can accomplish the same results.

52. The third activity mentioned in connection with both smuggling and illicit manufacturing, in particular by countries in post-conflict regions, was the illicit traffic in surplus military munitions. Reports referred to the use of surplus military explosives to make devices for criminal or other illicit uses, as well as basic smuggling and trafficking in surplus or stolen munitions of various kinds, which raises not only criminal justice issues, but also questions of arms control and national security in many regions.

53. The fourth and final activity mentioned was that which had occurred in the course of, or in support of, the illicit manufacture of fireworks. While the compounds used in fireworks are not generally as powerful as conventional explosives, many are relatively unstable, capable of causing extremely serious fires or explosions when ignited by accidental sources, such as the arcing of static electrical charges. Comments were not provided with the reports of major accidents, but experts were aware that several fatal occurrences take place each year, many of them in manufacturing facilities in which local legal requirements or basic safety principles are not being observed. Basic precautions adopted by reputable manufacturers and users of fireworks include practices that protect manufacturing operations from accidental ignition or detonation and that minimize the damages caused by such an event, practices such as the dispersal of large-scale manufacturing and storage operations and the separation of such operations from residential or other populated areas.

54. Only one country, the United States of America, reported other types of incidents that it considered to be major. Having reported relatively large numbers of domestic theft or diversion cases, it also reported significant numbers of explosives recoveries in that category.

H. Legal controls on explosives (questions 10-12)

55. There was virtual unanimity among survey respondents about the use of legal controls that were specific to explosives and related activities. Question 10 asked whether respondents had such controls, including offences, other controls such as safety standards, and licensing, authorization or other similar requirements. Thirty-four of 35 States answered "yes" to all four questions, and the remaining respondent did not answer the question. In response to question 11, the majority of respondents also indicated that they required some form of licence or authorization as a precondition for most explosive-related activities. Of 34 States that answered the question, 30 applied such controls to basic possession and use of explosives, 31 applied them to transportation, sale or other commercial activities and importation, 27 applied them to exportation, and 26 applied them to manufacture.

56. Least likely to require a licence or authorization was "any dealings in explosive precursors". Licensing and regulating such dealings in general is problematic for most Governments because precursor chemicals include many commonly available substances, such as sugars, fuel oils and fertilizer chemicals. Any extensive regulation or restriction of access to such chemicals is unlikely to be attempted unless the use of those substances as explosive components is seen as a

sufficiently serious problem to warrant the costs and inconvenience to legitimate users. That notwithstanding, over half of the respondents, 18 of 34 countries, indicated that at least some dealings in some precursors were subject to licence or authorization controls. That may be attributable to restrictions attached to more complex chemicals in order to ensure that partially manufactured explosive chemicals are dealt with. In some cases, it may also reflect the fact that some precursors are toxic, corrosive or otherwise dangerous in their own right. In such cases, moderate access controls such as requiring identification for purchasers and ensuring appropriate security for storage and shipment of large quantities of such chemicals may be feasible.[20]

57. An alternative to restricting access to some of the more common precursors considered by some countries is the adoption of legal requirements that those chemicals be altered in some way to ensure that they cannot be used to produce explosives. That is sometimes suggested for ammonium-nitrate-based fertilizers, but there are policy and other concerns that must usually be weighed against the need to reduce the threat posed by explosives in such cases. Those concerns include the cost of additives, possible reductions in the utility or cost-effectiveness of the altered fertilizers for some applications and environmental considerations.

58. Most of the States that required licences or authorizations also kept at least some related records in each category, although 20 to 25 per cent of them did not. The major functions of licensing and record-keeping are usually: the enforcement or administration of user screening to deny access to individuals who are not qualified to use explosives safely, or who represent an unacceptable risk of criminal misuse; and the creation of records that serve as evidence in the case of wrongdoing, thereby establishing a deterrent. The survey did not request details of domestic record-keeping systems, but these may vary widely in terms of the nature of the records kept, how they are kept and the extent to which they are actually available for use and are used to support effective controls on access to explosives. Generally, licences and corresponding records can simply identify an individual to vendors and appropriate officials as a person who is permitted to acquire or possess explosives, or they can serve as the basis for more elaborate records, such as files indicating whether an individual has acquired explosives, and, if so, what ultimately became of them. They can be kept locally or centrally, on systems that may range from paper files to computer networks. Automated systems are much more effective in verifying licences quickly and authoritatively, and in generating relevant information quickly for investigators once an incident has occurred, but they also raise major training, cost and infrastructure challenges, in particular for developing countries. Generally, the degree of legislative and administrative effort expended by Governments in this area can be expected to depend on the availability of financial, technical and human resources, and the extent to which various illicit activities involving explosives are seen as a threat.

59. The marking or tagging of explosives is often cited as a key element of any tracking, tracing or record-keeping system, and for that reason, States were also asked about the extent to which they required such measures (question 12). The concept of marking as it applies to explosives has two distinct meanings. Explosive detectors or sniffers generally work by detecting small amounts of chemical substances that are characteristic of explosives and that evaporate in sufficient quantities to permit detectable amounts present in air to be sampled. Some explosive substances, however, are not sufficiently volatile to emit detectable amounts of such chemicals. The expression "marking of explosives" is most commonly used to refer to the intentional addition of substances that will evaporate and be recognized by detection equipment as being characteristic of explosives, thereby ensuring that any substances thus marked will be detected when sampled.

60. That is the meaning used in the Convention on the Marking of Plastic Explosives for the Purpose of Detection. Of 31 States that answered the question, 18 indicated that they required that form of marking on the casing or packaging of explosives, and 13 indicated that they required the marking of the actual explosive substance for the purpose of detection. Attention was drawn to the Convention in a footnote, and a number of States qualified their responses by saying that they required marking as specified in the Convention, which is limited to plastic explosives, but not otherwise. That leaves open the possibility that explosives exist that cannot be detected by existing sampling apparatus, and which are not plastic explosives subject to the requirements of the Convention. Generally, explosives

are not detected by sampling apparatus either because they do not emit sufficient vapours, or because they do not emit vapours containing chemicals recognized by the equipment as characteristic of explosives. To the extent that such explosives represent a threat of criminal misuse, marking requirements that expand on those of the Convention to include all such explosives could be considered.

61. Marking that is sufficient to support tracing and the unique identification of explosives is more problematic. Unlike the serial numbers applied to firearms, any marking placed on the explosives themselves will be destroyed by detonation unless the method used is exceptionally durable. For that reason, the questions dealing with marking for the purposes of identification and tracing made a distinction between identification and tracing before and after detonation. To some extent, the responses reflected that fact. Of 31 responding States, 17 reported that they required markings on casings or packaging to support pre-detonation identification, and 11 required such marking of the explosive substances themselves. That could involve methods such as imprinting or stencilling batch, lot or serial numbers on boxes or containers, or directly on the casings in which the explosives are actually detonated. In some cases, it might also involve the stamping or printing of markings in types of explosive that were sufficiently solid to retain the mark and resist erasure or alteration.

62. Only 10 States indicated that they also required marking to support post-detonation identification on packaging, and eight indicated that they required such marking of the explosive substance itself. Generally, marking to support post-detonation identification, also referred to in some States as tagging, involves the inclusion of threads, pellets chemicals or other extraneous material ("taggants") that will remain intact or leave residues after detonation. To be effective as a method of identification, it must be possible to vary those elements in their composition (for example, using threads of different colour combinations), in order to permit identification by comparison with a manufacturer's samples or records. Given the limited number of variations, the information encoded will usually be limited in detail, compared to the serial numbering of firearms, which can be made completely unique to each individual item, if necessary. Chemical additives or other inclusions may be varied to indicate such things as the manufacturer or specific factory that made the explosive or the batch or the approximate date on which it was made, but greater detail is unlikely in the current state of technology. Of the eight States that require tagging, members of the Group of Experts were aware of only one that had adopted specific legislative requirements to that effect, namely Switzerland. One other State, India, suggested that the Swiss requirement form one element of a possible international legal instrument.

63. There are technical problems associated with the costs involved and the effects of extraneous material on the explosive properties of the substances in which they are included, and research into better methods is ongoing in some countries. Asked about efforts to develop better marking methods, 20 of 34 States indicated that they were not engaged in such research; 12 indicated that they were conducting such research, without specifying whether it involved marking for pre- or post-detonation identification; and one State, the United States of America, specifically described research into post-detonation identification technologies. One State indicated that it was conducting research that was not available to the public. Given the wording of the question, which asked about publicly available research, it is possible that other countries are conducting research that is not being disclosed, in order to ensure that potential offenders are not given information about how to elude or avoid marking.

I. Additional issues raised by the responses of States received after the preliminary analysis

64. As indicated in the introduction to the present report, the 35 responses that were received by 10 November 2001 were compiled and sent to the members of the Group of Experts in time to permit it to consider them prior to its second meeting, which ended on 20 December 2001. By that date, an additional 15 responses had been received, and these were considered directly by the experts in finalizing the study.[21] In addition to their survey documents, Belgium provided a supplementary report listing all explosive-related incidents during the study period, and India followed its earlier response with a letter containing supplementary information.

65. The additional response of India outlined problems that India has encountered with transnational

organized crime and terrorist groups, and proposed the creation of an international legal instrument that would have broader application to terrorist activities than existing counter-terrorism instruments and the United Nations Convention against Transnational Organized Crime.

66. In its response, the Government of Belgium provided a complete list of incidents, with a brief description of each, for the entire study period.[22] That provides some insight into the types of crime in which explosives may be used, although usage may well vary from one country to another. A number of the incidents reported by Belgium appear to have been robbery or theft attempts, including the use of explosives to attack safes and automated teller or cash-dispensing machines, and a very small number appear to have been personal attacks or murder attempts. Approximately half of the explosives or devices encountered by the Belgian authorities were of a military nature, with the most common being military grenades.

67. Generally, the information provided and issues raised by the additional responses were consistent with those received earlier. Most of the respondents indicated that interior ministries or agencies responsible for law enforcement or security matters were responsible for dealing with explosives matters. Two also listed their defence ministries and one listed a ministry responsible for geology and mining. Most indicated that at least some statistical records of incidents were kept, but the majority did not make them publicly available. Incident levels among those who reported statistics were generally within the same range as for the earlier responses, with several States either not reporting data or indicating that incident levels were too low to report. Most reported that they had specific laws on explosives, including offences, licensing and other controls. Most did not require the marking of explosives. On the question whether there was a significant problem with illicit manufacturing, trafficking or use by criminals, six States expressed the opinion that a significant problem existed, five saw no significant problem, and four expressed no opinion. On the question whether such a problem, if it existed, involved significant transnational elements, three expressed concern about transnational elements, eight expressed the opinion that there was no problem or that the problem was not of a transnational nature, and four expressed no opinion. South Africa and Slovenia noted a link between transnational trafficking and the presence of explosives in post-conflict areas, which was consistent with other responses from States in their respective regions.

Notes

[1] One reason suggested in the report is that countries were unwilling to disclose information about such things as the capability and extent of explosives manufacturing or the quantities of explosives and ammunition held in stockpiles for reasons of national security.

[2] Discussion of the marking of firearms during negotiation of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25, annex I, of 15 November 2000), ultimately produced agreement on such standards for firearms, with some exceptions to take account of the existing practices of countries. In discussion of explosives, however, many delegations saw marking proposals resembling those proposed for firearms as not being technically feasible (see A/AC.254/4/Add.2/Rev.3, footnote 74).

[3] The substantive text of section VII of the report (A/54/155) distinguishes between ammunition and explosives. Paragraphs 74-75, for example, discuss the head-stamping of cartridges, which applies to ammunition but not explosives. The recommendations, however, make no distinction, giving general recommendations which may apply in varying degrees to only one or both commodities. Generally, the marking of cartridges, which are made of metal and remain after the ammunition has been used, is seen as more feasible than the marking of explosives, which have neither of those characteristics.

[4] The Convention came into force on 21 June 1998 and had 71 States Parties as of December 2001.

[5] The Treaty came into force on 23 May 2001 and had 58 signatories and 45 States Parties as of December 2001.

[6] The instrument has been signed by all 31 OAS member States, and had 13 States Parties as of December 2001.

[7] The extent to which these elements must be established depends to some extent on the Convention provision that a State Party seeks to invoke. The mutual legal assistance provision applies where the requesting State Party has "reasonable grounds to believe" that the offence is transnational in nature, for example

(article 18), whereas the standard for seeking the extradition of accused offenders (article 16) is higher.

[8] While information in this area was not sought, many countries have legislation or regulations that limit or prohibit activities such as use and transport in areas of high population density, or in conjunction with particular modes of transport, notably aircraft.

[9] Preliminary data on total recorded crime per 100,000 population are available online at http://www.uncjin.org/Statistics/WCTS/trc000927.pdf. Not all of the countries that reported high incident rates for explosives are listed in the draft United Nations survey.

[10] The extent of the problem of anti-personnel mines and other unexploded ordnance is difficult to assess and most demining experts caution against direct statistical analysis due to definitional, recording and reporting problems. However, the International Committee of the Red Cross (ICRC) conservatively estimates that at least 24,000 deaths and injuries result from landmines alone each year. See "The worldwide epidemic of landmine injuries: the ICRC's health-oriented approach" (ICRC, Geneva, 1995) and "Overview 1999: Landmines must be stopped" (ICRC, Geneva, 1999) online (open the ICRC homepage (www.icrc.org) and follow the appropriate links.

[11] The incident killed 168 people, raising the annual death toll for 1995 from 25 to 193. Excluding the deaths from this single incident, the annual average for 1995-1999 was 21.0 deaths per year. Including the Oklahoma incident, the annual average rose to 54.6, or from 0.007 to 0.019 per 100,000 population

[12] This is a general description of the content only. For an accurate assessment of the principles that govern the application of the Convention, the provisions of the instrument itself should be consulted.

[13] The data compiled in table 4 of the present report combine the first two of those three categories.

[14] This category included smuggling into or out of the jurisdiction, as well as other transnational elements. See table 2 of the present report.

[15] The incidents occurred in Mumbai, India, on 12 March 1993, and therefore are not dealt with in the study, which covers only the years 1995 to 1999.

[16] The Convention only applies where an "organized criminal group" is involved. Such groups are defined by article 2, paragraph (a), as a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with the Convention, in order to obtain, directly or indirectly, a financial or other material benefit.

[17] Information was sought only about actual explosive devices, but it should be noted that hoax or imitation devices are also a significant problem in many countries.

[18] As with explosive substances, only countries which reported 55 per cent or more of the devices in one category were included as predominantly of that category.

[19] The United Kingdom also had incidents of major property damage resulting in attacks by the Irish Republican Army during the study period, but does not keep centralized statistics of incidents or the damages caused

[20] For a list of major precursor chemicals and possible access controls, see document A/54/155, paras. 100-101. The lists include several substances, notably high-concentration acids, which may have been considered sufficiently dangerous as poisonous or corrosive agents to warrant regulatory controls in some countries independently of their function as a precursor of explosives.

[21] Two further responses, from Morocco and Slovenia, were received after the conclusion of the final meeting of the Group of Experts on 20 December 2001, but prior to the submission of the present report to the Commission.

[22] The United States makes similar information available through its web sites.

Annex I

List of States that responded to the survey questionnaire

Algeria
Azerbaijan
Belgium
Bolivia
Botswana
Bulgaria
Chile
China
Colombia
Cyprus
Czech Republic
Denmark
Eritrea
Estonia
Finland
Gambia
Germany
Guatemala
Guyana
Honduras
India
Indonesia
Japan
Jordan
Kuwait
Lebanon
Lithuania
Malta
Mauritius
Mexico
Monaco
Morocco
Namibia
Netherlands
Panama
Peru
Poland
Qatar
Singapore
Slovakia
Slovenia
South Africa
Spain
Sweden
Switzerland
Syrian Arab Republic
Tunisia
Turkey
Ukraine
United Arab Emirates
United Kingdom of Great Britain and Northern Ireland
United States of America